

Attorney Docket: YO999-172

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2654

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application

Applicant(s): Chen et al.
Docket No.: YO999-172
Serial No.: 09/345,238
Filing Date: June 30, 1999
Group: 2654
Examiner: Qi Han

I hereby certify that this paper is being deposited on this date with the U.S. Postal Service as first class mail addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Signature: Jim Mauri Date: February 10, 2004

Title: Method and Apparatus for Tracking Speakers in an Audio Stream

TRANSMITTAL OF APPEAL BRIEF

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Technology Center 2600

Mail Stop Appeal Brief - Patents
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Submitted herewith are the following documents relating to the above-identified patent application:

(1) Reply Brief (original and two copies).

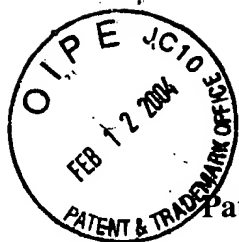
In the event of non-payment or improper payment of a required fee, the Commissioner is authorized to charge or to credit **IBM Corporation Deposit Account No. 50-0510** as required to correct the error. Duplicate copies of this letter and duplicate copies of the Reply Brief are enclosed.

Respectfully,

Kevin M. Mason

Date: February 10, 2004

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REPLY BRIEF

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Sir:

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Applicants hereby reply to the Examiner's Answer, mailed December 17, 2003, in an Appeal of the final rejection of claims 1 through 35 in the above-identified patent application.

REAL PARTY IN INTEREST

25

A statement identifying the real party in interest is contained in Applicant's Appeal Brief.

RELATED APPEALS AND INTERFERENCES

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There are no related appeals or interferences that will directly affect or be directly affected by or have a bearing on the decision in the present appeal.

STATUS OF CLAIMS

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A statement identifying the status of the claims is contained in Applicant's Appeal Brief.

STATUS OF AMENDMENTS

A statement identifying the status of the amendments is contained in Applicant's Appeal Brief.

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SUMMARY OF INVENTION

A Summary of the Invention is contained in Applicant's Appeal Brief.

ISSUES PRESENTED FOR REVIEW

10 A statement identifying the issues present for review is contained in Applicant's Appeal Brief.

GROUPING OF CLAIMS

15 A statement identifying the grouping of the claims is contained in Applicant's Appeal Brief.

CLAIMS APPEALED

A copy of the appealed claims is contained in an Appendix of Applicant's Appeal Brief.

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ARGUMENT

Independent claims 1, 16, 23 and 30-35 are rejected under 35 U.S.C. §102(b) as being anticipated by Chen et al.

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In the Examiner's Answer, the Examiner states that it is believed that the limitation "substantially concurrently" has no patentable weight, because the Applicant does not have any clear definition and/or description in the claim or in the specification about this limitation, and does not give any conditions to apply this limitation. The Examiner also asserts that the prior art explicitly and/or implicitly discloses all the limitations regarding claim 1, including the limitation of "substantially concurrently," based on the interpretation of the claim language and the understanding (of the) prior art teachings. In particular, the Examiner asserts that the performance of the two steps

(segmentation and clustering) may be associated with many time related factors, including computing speed, sample rate, and total stream size.

5 The Examiner further asserts that the fact that the clustering in Chen is performed only after the audio stream has been segmented and that each segment is compared to all other segments before clustering is finalized is not relevant to claim 1 since claim 1 does not recite these limitations.

The Examiner also notes that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references.

10 Regarding the Examiner's assertion that the limitation "substantially concurrently" has no patentable weight, Applicants note that the word "substantially" has a well known and well understood definition in claim language. Its meaning is sufficiently clear in the teachings of the specification such that a person of ordinary skill in the art would understand the limitation without the need to apply conditions.

15 Regarding the Examiner's assertion that the prior art explicitly and/or implicitly discloses all the limitations regarding claim 1, including the limitation of "substantially concurrently," based on the interpretation of the claim language and the understanding (of the) prior art teachings, Applicants note that the broad interpretations made by the Examiner are *not consistent* with the specification and are *not consistent*
20 with the interpretation of the specification that a person of ordinary skill in the art would make. For example, the interpretation that "substantially concurrent" is related to a computing speed is not disclosed or suggested by the specification and would not be interpreted in this manner by a person of ordinary skill in the art. As disclosed on page 2 (lines 16-26) of the original specification, "the present invention concurrently *segments*
25 *an audio file and clusters the segments* corresponding to the same speaker." Thus, the term "substantially concurrent" is related to the *parallel execution* of the segmentation and clustering steps. See, also, FIG. 2.

More specifically, Applicants note that these limitations are clearly captured in claim 1, which recites the limitations of identifying potential segment
30 boundaries in said audio source; and clustering homogeneous segments from said audio source substantially concurrently with said identifying step. Claim 1 requires the

clustering of homogeneous segments *substantially concurrently* with said identifying step. Chen, therefore, actually teaches away from the present invention by teaching that the clustering is performed only after the audio stream has been segmented. Thus, contrary to the Examiner's assertion, the limitations cited by the Examiner in reference to

5 Chen are *clearly relevant* to the consideration of claim 1.

Applicants also note that the references were not attacked individually, but were reviewed to demonstrate that *none* of the references contain a limitation required by the claims of the present invention and that, therefore, the prior art does not pose a bar to patentability.

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Conclusion

The rejections of the independent claims under section §103 in view of Chen, Kleider et al. or well known prior art, alone or in any combination, are therefore believed to be improper and should be withdrawn. The rejected dependent claims are

15 believed allowable for at least the reasons identified above with respect to the independent claims.

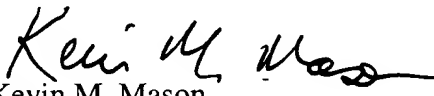
The attention of the Examiner and the Appeal Board to this matter is appreciated.

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Respectfully,

Date: February 10, 2004

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